

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

LeRoy Koppendrayner
Marshall Johnson
Thomas Pugh
Phyllis A. Reha

Chair
Commissioner
Commissioner
Commissioner

In the Matter of a Petition by Frontier
Communications of Minnesota, Inc. for
Renewal and Revision of its Revised
Alternative Regulation (AFOR) Plan

ISSUE DATE: June 7, 2007

DOCKET NO. P-405/AR-07-516

ORDER ADOPTING PROCEDURES AND
REQUIRING SETTLEMENT
CONFERENCE

PROCEDURAL HISTORY

Since 1995, the Minnesota Commission has been given the authority by the Minnesota Legislature to approve alternative form of regulation (AFOR) plans for local exchange carriers. Minn. Stat. §§ 237.76 through 237.774.

Frontier Communications of Minnesota, Inc. (Frontier) was among the first local exchange carriers (LECs) in Minnesota to have an AFOR Plan approved by the Commission. On August 19, 1996, the Commission issued its ORDER APPROVING FRONTIER'S ALTERNATIVE REGULATION PLAN in Docket No. P505/AR-95-1048.

On July 19, 2001, the Commission approved Frontier's First Revised AFOR Plan with its ORDER MODIFYING ALTERNATIVE REGULATION PLAN in Docket No. P405/AR-00-394.

On October 28, 2004, the Commission approved Frontier's Second Revised AFOR Plan in its ORDER ACCEPTING SETTLEMENT AND APPROVING SECOND REVISED ALTERNATIVE REGULATION PLAN in Docket No. P405/AR-04-170. The Company's Second Revised AFOR Plan is due to expire on November 1, 2007.

On April 30, 2007, Frontier submitted for Commission approval its Third Revised AFOR Plan for implementation effective November 1, 2007 to replace the current Plan.

No party filed comments.

The Commission met on May 24, 2007 to consider this matter.

FINDINGS AND CONCLUSIONS

In this Order, the Commission addresses two issue: 1) the procedures for review of Frontier's Third Revised AFOR Plan; and 2) the settlement process required under Minn. Stat. § 237.764, subd. 2.

I. DRAFT REVIEW PROCEDURES

Commission Staff proposed a detailed set of procedures to govern the review of Frontier's AFOR.

A. Initial Notice and Service List

The Company would serve copies of the Commission Order and its petition on all telecommunications carriers in Minnesota with which it has an interconnection agreement, file a list of all persons served with the filing and the Order, and post its petition, any public meetings determined by the Commission, and the case timetable and any other pertinent information at its website.

B. Petition for Intervention

Any person who wished to intervene to file a petition under Minn. Rules, part 7829.0800 would be required to do so within 20 days of the Order, or June 20, 2007, whichever comes later.

C. Declaration of Interest Form

Any person who wished to be placed on the service list would so indicate on the Declaration of Interest Form and return it to the Commission within 20 days of the Order, or June 20, 2007, whichever comes later.

D. Service of Documents

After the official service list is established and distributed, all parties submitting documents to the Commission would submit proof that the document has been served on all other parties on the service list.

E. Comments on the Adequacy of Frontier's Filing as to Form

Deadlines for Comments and Reply Comments would be June 22, 2007 and June 29, 2007 on whether Frontier's filing meets the requirements of Minn. Stat. §§ 237.76-237.769 and 237.61 and the renewal provisions of the Current Plan.

F. Comments on the Merits of Frontier's Proposed Third Revised AFOR Plan

Deadlines for filing comments on the merits of the Plan would be July 17, 2007 for Initial Comments and July 31, 2007 for Reply Comments.

G. Protective Order

A lead commissioner is to be designated to deal with any protective order that will be filed by the parties.

H. Public Meetings

The Commission would solicit input from the parties on whether the Commission should conduct public meetings for this proceeding and require any public meetings to be conducted by the Administrative Law Judge. Frontier would be directed to submit a proposed schedule of public meetings by June 20, 2007, or 20 days from the date of Commission Order, whichever comes later. Frontier would be further required to submit a schedule with the date, time and location of each public hearing, and the dates of publications in the appropriate local newspaper.

I. Customer Notice

The Company would a) publish a public notice in newspapers of general circulation in all county seats in Frontier's service area inviting the public to comment on the Company's petition; b) send notices to city clerks and/or city administrators in all cities within Frontier's service area; c) provide individual notice of the proposal to all of Frontier's customers; and d) work with the Department of Commerce, the Residential and Small Business Utilities Division of the Office of the Attorney General (RUD-OAG), and Commission staff on the language, publication, and timing of the above-mentioned notices.

J. Information Requests

Frontier and all parties would be required to answer any information requests issued by the Commission staff, the Department of Commerce, RUD-OAG, or any party within 10 days of receipt. A copy of each information request would be required to be served on the Commission and on the service list developed for this proceeding. Subject to the protective order described above, answers to the information requests would be served on all parties, and on non-party participants upon request.

K. Delegated Authority to the Executive Secretary

The Executive Secretary would be delegated the authority to act on subsequent procedural and notice filings and to vary the time periods established on his own motion or at the request of a party for good cause shown.

L. Settlement Conference and Reports

The parties would be required to convene a settlement conference as soon as practicable, and to submit either a settlement report or a recommended time extension by July 31, 2007. The Company would be required to submit a written progress report on the settlement negotiations on June 20, 2007 and every 30 days thereafter.

II. FRONTIER'S PROPOSED CHANGES

Frontier did not file comments regarding the proposed review procedures, but at the hearing did request changes to three of the staff proposed sections: H, I, and A.

The Company asked that Sections H and I be modified by deleting the proposed language and replacing it with the language adopted for sections H and I in the Commission Order approving review procedures for Frontier's most recent AFOR, the Second Revised AFOR.¹ The language approved in the Company's most recent AFOR review for Sections H and I is as follows:

H. Public Meetings

The Commission will conduct public meetings it may consider necessary. The Commission will determine at a later date whether to conduct public meetings.

I. Customer Notice

The Company shall provide notice of the proposed Second Revised AFOR Plan to all its individual customers. Frontier filed a proposed customer notice with its Application. The Company shall work with the Department of Commerce, the RUD-OAG, and Commission staff to finalize the proposed notice and to determine the timing of the notice.

Frontier also requested that Section A be modified to relieve the Company of the obligation to mail hard copies of the Order and Petition to all telecommunications carriers in Minnesota with which it has an interconnection agreement. Instead, the Company proposed to send a notice to these companies, informing them where they could find copies of the Order and Petition on the internet.

The Company further requested that the Commission clarify that the Company is allowed to place this information and any other pertinent AFOR-related information (such as any public meetings and case timetable) on whichever of the Company's websites the Company deems most

¹ See In the Matter of a Petition by Frontier Communications of Minnesota, Inc. for Renewal and Revision of its Second Revised Alternative Regulation Plan, Docket No. P-405/AR-04-170, ORDER ADOPTING PROCEDURES AND REQUIRING SETTLEMENT CONFERENCE (March 19, 2004) at page 7.

appropriate for this purpose. The Company requested that it not be required to display this information on the website referred to by Commission staff in its recommendations: www.frontieronline.com. The Company explained that it used this particular website for commercial purposes and that another of its websites may be more appropriate for the AFOR-related information.

III. THE RUD-OAG's RECOMMENDED CHANGE

The RUD-OAG recommended that in lieu of requiring or dispensing with public meetings on the AFOR proposal at this time, the Commission could require that an e-mail address be established to allow customers to ask the Company questions, to express concerns, and to receive the Company's responses about the proposed revised AFOR.

IV. COMMISSION ANALYSIS AND ACTION REGARDING REVIEW PROCEDURES

The Commission finds that the Staff's proposed review procedures are sound and reasonable, are consistent with previously approved AFOR review procedures in most respects, and were for the most part not objected to be any party. The Commission will adopt those procedures, modified in the following respects:

First, regarding section H (public meetings): public meetings beyond the public hearings held by the Commission to consider Frontier's AFOR are discretionary with the Commission and not required by statute.² Mailed and e-mail input from the public will provide a basis for determining the need for and desirability of scheduling such public meetings .

Second, regarding section I (customer notice): the Commission agrees with Frontier that providing individual notice to the Company's customers about the proposed revised AFOR is the most critical and efficient way to inform persons likely to be interested in this proceeding. This places great importance on the notice the customers receive, however, and underlines the importance of serious collaboration between the concerned parties (the Company, the Department, and the RUD-OAG) on the substance of that notice. Among other things, the notice will inform customers how they can e-mail or mail to the Company questions and concerns about the Company's proposal and register any request for a public meeting to address the Company's proposal.

Clear notice to customers about the existence and usefulness of the e-mail/letter means of securing information and registering concerns is particularly important in this docket. It is being relied on

² Minn. Stat. § 237.764, subd. 1 (b) states: "The commission shall require the petitioning telephone company to provide notice of the proposed plan to its customers, along with a summary description of the plan provisions and the dates, times, and locations of public meetings scheduled by the commission."

in lieu of newspaper notice and mailed notice to city clerks and as a temporary and possibly permanent replacement for public meetings at which the public express their concerns and have their questions answered. In light of this increased importance of the customer notification, the Company will be required to work with the Department of Commerce, the RUD-OAG, and Commission staff to finalize the text and timing of the customer notice.

Third, section A is modified to relieve the Company of the obligation to mail hard copies of the Order and Petition to all telecommunications carriers in Minnesota with which it has an interconnection agreement. Instead, the Company's proposal to send a notice to the identified companies, informing them where they could find copies of the Order and Petition on the internet will be accepted.

Regarding the identity of the website that Frontier will use to display information to the public about the AFOR proposal, the Commission will allow the Company discretion to use whichever of its websites it deems best suited to this purpose.

V. SETTLEMENT CONFERENCE PROCEDURES

Minn. Stat. § 237.764, subd. 2, requires the Commission to convene a settlement conference to encourage settlement or stipulation of issues. Minn. Stat. § 237.764, subd.1(f) allows the Commission to accept, reject, or modify the proposed settlement within 60 days from the date it is submitted.

Since the Company's current AFOR plan expires on November 1, 2007, the Commission will encourage the parties to convene a settlement conference as soon as practicable and to submit either a settlement report or a recommended time extension by July 31, 2007.

The Commission will also require the Company to submit a written progress report on the settlement negotiations on June 20, 2007 and every 30 days thereafter. Any settlement submitted to the Commission should fully discuss the merits of the settlement as well as the associated proposed plan.

ORDER

1. The Commission hereby adopts the following procedures for review and adoption of Frontier's Third Revised AFOR:

A. Initial Notice and Service List

Within 10 days following the issuance of this Order, the Company shall (1) send a notice to all telecommunications carriers in Minnesota with which it has an interconnection agreement, informing them where they can find the Company's AFOR petition and this Order on the internet, either on the Commission's website or on one of the Company's websites or both; (2) file a list of all persons served with that Notice; and (3) post its petition, the case timetable and any other pertinent information on one of its websites.

B. Petition for Intervention

Any person who wishes to intervene shall file a petition under Minn. Rules, part 7829.0800 within 20 days of this Order, or by June 20, 2007, whichever comes later.

C. Declaration of Interest Form

Any person who wishes to be placed on the service list shall so indicate on the Declaration of Interest Form and return it to the Commission within 20 days of this Order, or by June 20, 2007, whichever comes later. A copy of the Declaration of Interest form is attached to this Order, marked Attachment A.

D. Service of Documents

After the official service list is established and distributed, all parties submitting documents to the Commission must submit proof that the document has been served on all other parties on the service list.

E. Comments on the Adequacy of Frontier's Filing as to Form

Deadlines for Comments and Reply Comments on whether Frontier's filing meets the requirements of Minn. Stat. §§237.76-237.769 and 237.61 and the renewal provisions of the Current Plan shall be June 22, 2007 and June 29, 2007, respectively.

F. Comments on the Merits of Frontier's Proposed Third Revised AFOR Plan

Deadlines for filing comments on the merits of the Plan shall be as follows:

Initial Comments – July 17, 2007
Reply Comments – July 31, 2007.

G. Protective Order

A lead commissioner will deal with any protective order that may be filed by the parties.

H. Public Meetings

Additional public meetings will be scheduled as determined to be needed by the parties, including the Department and the OAG.

I. Customer Notice

The Company shall provide notice of the proposed Second Revised AFOR Plan to all its individual customers. Among other things, the notice will inform customers how they can e-mail or mail to the Company questions and concerns about the Company's proposal, including any request for a public meeting to address the Company's proposal. The

Company shall work with the Department of Commerce, the RUD-OAG, and Commission staff to finalize the proposed notice and to determine the timing of the notice.

J. Information Requests

Frontier and all parties shall answer any information requests issued by the Commission staff, the Department, RUD-OAG, or any party within 10 days of receipt. A copy of each information request must be served on the Commission and on the service list developed for this proceeding. Subject to the protective order described above, answers to the information requests shall be served on all parties, and on non-party participants upon request.

K. Delegated Authority to the Executive Secretary

The Commission hereby delegates authority to the Executive Secretary to act on subsequent procedural and notice filings and to vary the time periods established on his own motion or at the request of a party for good cause shown.

2. The parties shall convene a settlement conference as soon as practicable and submit either a settlement report or a recommended time extension by July 31, 2007. The Company shall submit a written progress report on the settlement negotiations on June 20, 2007 and every 30 days thereafter.
3. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

(S E A L)

This document can be made available in alternative formats (i.e., large print or audio tape) by calling (651) 297-4596 (voice), or 1-800-627-3529 (MN relay service).

ATTACHMENT A

FOR THE MINNESOTA PUBLIC UTILITIES COMMISSION
Suite 350, 121 Seventh Place East
St. Paul, MN 55101-2147

In the Matter of a Petition by Frontier
Communications of Minnesota, Inc. for
Renewal and Revision of its Revised Alternative
Regulation (AFOR) Plan

Docket No. P-405/AR-07-516

DECLARATION OF INTEREST

The person named below would like to remain on the mailing list for the above captioned matter.

NAME:

ADDRESS:

TELEPHONE NO.:

PERSON'S ATTORNEY OR OTHER REPRESENTATIVE:

OFFICE ADDRESS:

TELEPHONE NUMBER:

SIGNATURE OF PERSON OR ATTORNEY:

DATE:

The person named below would like to be deemed an interested person for purposes of
Minn. Stat. § 237.61 in this proceeding.

NAME:

ADDRESS:

TELEPHONE NO.:

PERSON'S ATTORNEY OR OTHER REPRESENTATIVE:

OFFICE ADDRESS:

TELEPHONE NUMBER:

SIGNATURE OF PERSON OR ATTORNEY:

DATE: